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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BARQADLE, YASIN M

ART UNIT

PAPER NUMBER

2456

NOTIFICATION DATE

DELIVERY MODE

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ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/933,845	<b>Applicant(s)</b> VAN DE SLUIS, BARTEL MARINUS	
	<b>Examiner</b> YASIN BARQADLE	<b>Art Unit</b> 2456	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,9-12 and 15-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,9-12 and 15-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **Response to Amendment**

1. The amendment filed on February 08, 2010 has been fully considered but are not deemed persuasive.

- Claims 1, 9-12 and 15-32 are presented for examination.

### **Response to Arguments**

2. In essence the Applicant argues that "... the tones embedded within audio signal mentioned are not received at the reference server ... Therefore, the reference to "tones" in Philyaw does not indicate in way that a message packet illustrated in Fig. 4a ... is audio content or other type of content." that can be played by a client system." page 9 first paragraph.

The Examiner disagrees. The message transmitted to the ARS is a portion of the audio signal (content item) that contains information derived from the audio signal 111 (Col. 6, lines 37-44).

Further Philyaw teaches "Referring now to FIG. 6, there is illustrated a flowchart of the process the ARS 308 may undergo when receiving the message packet 400 from the source PC 302... Upon receipt of the message packet 400, in function block 602, the ARS 308 decodes the message packet 400... In function block 606, the product code is then used with a look-up table to

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retrieve the advertiser server 312 URL of the respective product information contained in the audio signal data. In function block 608, the ARS 308 then assembles message packet 402 for transmission back to the source PC 302. Function block 610 indicates the process of sending the message packet 402 back to the source PC 302 over Path "B." (col. 8, lines 23-43). In other words the message received at the ARS server 308 includes audio signal data that is then routed back to source PC 302 and is played on client PC 302. Also it worth noting that the message packet contains routing information 904 in the form of an embedded code within the audio signal as discussed above and in previous responses.

Philyaw further teaches" FIG. 1, an advertiser is allowed the ability to control a user's PC 112 through the use of tones embedded within a program audio signal. As will descried hereinbelow, the disclosed embodiment utilizes particular routing information stored in the PC 112 which allows the encoded information in the received audio signal to route this information to a desired location on the network and then allow other routing information to be returned to the PC 112 for control thereof to route the PC 112 to the appropriate location associated with that code." (col. 4, lines 55-65). In other words the message includes information derived from the audio signal. Also audio signal includes routing information to which data in the audio signal is to be routed.

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Regarding arguments related to "determining that the portion of the content item [received at the server system] is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item" recited in claim 1." Page 9-10.

The Examiner maintains that Philyaw teaches " message packet 400 sent from the source PC 302 to ARS 308 via Path "A" comprises several fields. One field comprises the URL of the ARS 308 which indicates where the message packet is to be sent. Another field comprises the advertiser product code or other information derived from the audio signal 111, and any additional overhead information required for a given transaction." (col. 6, lines 36 to col. 7, line 13).

In other words message 4a includes several fields including URL of source and URL field (ID) that are not used for interrogating a product information in the database. Additional fields for further information may include the request for information in 4c, 4d and 4e. The fact that the message is accompanied identifiers that are not used to interrogate a database, then the argued limitation is met. The claim does not rule out identifiers other than the product code.

Arguments related to claims 11-12 and other dependent claims include similar arguments addressed above. Therefore, they are moot.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 1, 9, 21-22 and 28-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Philyaw et al USPN (6098106).

As per claim 1, 9 and 22, Philyaw et al teach a method to enhance rendering of a content item (fig. 3), the method comprising:

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receiving, at a server system (fig. 3, 308), a portion of the content item that can be played by a client system from the client system (message packet 4a col. 6, lines 13-344; col. 8, lines 24-43), the received portion of the content item being distinct from an identifier associated with the content item, the portion of the content item comprising audio and or/video content (see message packet 400a and col. 6, lines 13-37; col. 8, lines 24-43; audio signal data implies audio content); determining that the portion of the content item is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item (col. 8, lines 24-43 and lines 51-67);

processing, at the server, the received portion of the content item to determine, from the received portion of the content item, the identifier associated with the content item (col. 6, lines 66 to col. 7, line 13); a lookup component to obtain further information on the content item using the determined identifier (col. 6, lines 15-21; col. 8, lines 24-43 and lines 51-67), and transmitting the further information to the client system (col. 7, lines 17-22 and col. 8, lines 24-43).

As per claim 21 and 28, Philyaw et al teach the method, wherein the processing of the received portion of the content item comprises determining an audio characteristics associated with the received portion of the content item (col. 6, lines 37-49 and col. 9, lines 33-54).

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As per claim 29, Philyaw teaches the inventions as explained in claims 1 and 22. Further Philyaw teaches detecting an indication of a user interest in a content item and responding to the indications by obtaining a portion of the content item from a client system (col. 6, lines 13-37; col. 8, lines 24-43 and col. 11, lines 2-40).

Regarding claims 30 and 32, Philyaw's teaching of tones and broadcast video and audio single implies song and video.

Regarding claim 31, Philyaw teaches server system with a database to store information associated with content items (fig. 3, 310 and 314).

2. Claims 1, 9, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Conwell et al USPN (6970886).

As per claims 1, 9, and 22, Conwell et al teach a method to enhance rendering of a content item (fig. 1 and abstract), the method comprising:

receiving, at a server system (Registry database, fig. 1), a portion of the content item that can be played by a client system from the client system (col. 3, lines 43 to col. 4, lines 13), the received portion of the content item being distinct from an identifier associated with the content item, the portion of the content item comprising audio and or/video content (system (col. 1, lines 43-57 and col. 3, lines 43 to col. 4, lines 13); determining that the portion of the content



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item is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item (col. 1, lines 43-57 and col. 3, lines 43 to col. 4, lines 13);

processing, at the server, the received portion of the content item to determine, from the received portion of the content item, the identifier associated with the content item (col. 2, lines 36-43 and col. 4, line 35-60); a lookup component to obtain further information on the content item using the determined identifier (col. 1, lines 43-57 and col. 3, lines 43 to col. 4, lines 13), and transmitting the further information to the client system (col. 1, lines 43-57 and col. 3, lines 43 to col. 4, lines 13 and col. 4, lines 35-65).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 10 and 15-19, and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Philyaw et al, USPN (6098106) in view of Herz et al USPN. (20010014868).

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As per claim 10 and 15, Although Philyaw et al shows substantial features of the claimed invention as explained above, Philyaw does not explicitly show computing a hash value for the received portion of a content value.

Nonetheless, this feature is well known in the art and would have been an obvious modification of the system disclosed by Philyaw et al, as evidenced by Levy et al USPN. (6505160).

In analogous art, Levy et al teaches computing a hash value for a received portion of a content value (col. 9, lines 45 to col. 10, line 15). Giving the teaching of Levy et al, a person of ordinary skill in the art would have readily recognized the desirability and the advantage of modifying Philyaw et al by employing the hashing system of Levy in order to generate a unique identifier of a content to ensure the integrity of the content.

As per claim 16 and 23, Levy et al teach the method of claim 15, wherein the obtaining of further information includes utilizing the calculated hash value as the identifier associated with the content item (col. 6, lines 43-54 and col. 12, lines 62 to col. 13, line 15).

As per claim 17 and 24, Levy et al teach the method further comprising utilizing the identifier for the content item to add the content item to a list calculated hash and the determined identifier (col. 7, lines 4-38 and col. 13, lines 42 to col. 14, line 9).

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As per claim 18 and 25, Levy et al teach the invention, wherein the further information includes a title associated with the content item (col. 13, lines 12-15).

As per claim 19 and 26, Levy et al teach the invention, wherein the portion of the content item is received from a mobile phone (col. 14, lines 15-24).

4. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Philyaw et al, USPN (6098106) in view of Levy USPN. (6505160) and further in view of Herz et al USPN. (20010014868).

As per claim 11, Philyaw et al teach a method to facilitate an e-commerce transaction (abstract) the method comprising:

receiving, at a server (fig. 3, 308), a media object that can be played by a client system (message packet 4a including audio signal appended with URL information is transmitted to the media server col. 5, lines 47-52 and col. 6, lines 13-37; col. 8, lines 24-43) , the media object being distinct from an identifier associated with the content item (the URL is distinct from the product code in the message packet), determining that the media object is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the media object (the URL address is not

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suitable for interrogating the database for product information col. 8, lines 24-43 and lines 51-67);

processing, at the server, the media object to determine an identifier from the media object utilizing the calculated hash and the determined identifier (col. 4, lines 40-56; col. 6, lines 43-54 and col. 12, lines 62 to col. 13, line 15).

Although Philyaw et al shows substantial features of the claimed invention as explained above, Philyaw does not explicitly show computing a hash value for the received portion of a content value.

Nonetheless, this feature is well known in the art and would have been an obvious modification of the system disclosed by Philyaw et al, as evidenced by Levy et al USPN. (6505160).

In analogous art, Levy et al teaches computing a hash value for a received portion of a content value (col. 9, lines 45 to col. 10, line 15). Giving the teaching of Levy et al, a person of ordinary skill in the art would have readily recognized the desirability and the advantage of modifying Philyaw et al by employing the hashing system of Levy in order to generate a unique identifier of a content to ensure the integrity of the content.

Although Philyaw and Levy et al show substantial features of the claimed invention including returning a web page of information about the object and links actions such as buying and downloading related music (col. 13, lines 42

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to col. 14, line 9 Levy), Philyaw and Levy do not explicitly show determining further information associated with the content item and transmitting an electronic offer to sell (an item) utilizing determined identifier.

Nonetheless, this feature is well known in the art and would have been an obvious modification of the system disclosed by Philyaw and Levy, as evidenced by Herz et al USPN. (20010014868).

In analogous art, Herz et al whose invention is a system for tracking the behavior of online shoppers by accumulating extensive profiles of the shoppers and the offers that they consider. The system customizes prices and promotions, automatically constructing product offers tailored to individual shoppers (abstract), discloses determining further information associated with the content item and offering promotions to a shopper on related purchases such as when the shopper purchases item A, the system offers a coupon on related item B based on identifiers associated with the user's profile (¶ 266-267 and ¶ 277-279. see also ¶ 237). Giving the teaching of Herz et al, a person of ordinary skill in the art would have readily recognized the desirability and the advantage of modifying Philyaw and Levy by employing the system for the automatic determination of customized prices and promotions of Herz because this will enable vendors to maximize their profit margin and to help shoppers become informed about available offers (abstract and ¶ 4 and ¶24).

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As per claim 12, Levy et al teach the method of claim 11, wherein the media object comprises a portion of an electronic content item (col. 9, lines 19-54, col. 7, lines 3-10 and col. 12, lines 16-62).

5. Claims 20 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Philyaw et al, USPN (6098106) in view of Herz et al USPN. (20010014868).

As per claims 20 and 27, although Philyaw et al shows substantial features of the claimed invention as explained above, Philyaw does not explicitly show further information includes an offer to sell a further content item related to the content item.

Nonetheless, this feature is well known in the art and would have been an obvious modification of the system disclosed by Philyaw et al, as evidenced by Herz et al USPN. (20010014868).

In analogous art, Herz et al whose invention is a system for tracking the behavior of online shoppers by accumulating extensive profiles of the shoppers and the offers that they consider. The system customizes prices and promotions, automatically constructing product offers tailored to individual shoppers (abstract), discloses determining further information associated with the content item and offering promotions to a shopper on related purchases such as when the shopper purchases item A, the system offers a coupon on

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related item B based on identifiers associated with the user's profile (§ 266-267 and § 277-279. see also § 237). Giving the teaching of Herz et al, a person of ordinary skill in the art would have readily recognized the desirability and the advantage of modifying Philyaw et al by employing the system for the automatic determination of customized prices and promotions of Herz because this will enable vendors to maximize their profit margin and to help shoppers become informed about available offers (abstract and § 4 and §24].

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In

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no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin Barqadle whose telephone number is 571-272-3947. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dharia Rupal can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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/Yasin M Barqadle/

Primary Examiner, Art Unit 2456